

1           (2) Uses identified as conditional uses in s. 91.46.

2           (3) Prior nonconforming uses, subject to the following:

3           (a) A prior nonconforming use that is a residence may be expanded or  
4 remodeled, as long as there is no increase in the number of dwelling units in the  
5 residence.

6           (b) A prior nonconforming use that is not a residence may continue without  
7 further approval unless it is materially altered.

8           (c) The proposed farmland preservation zoning districts under the farmland  
9 preservation zoning ordinance contain only isolated prior nonconforming uses.

10          (4) Other uses allowed by the department by rule.

11          **91.44 Permitted uses.** (1) A farmland preservation zoning ordinance does  
12 not comply with s. 91.42 if the farmland preservation zoning ordinance allows as a  
13 permitted use in a farmland preservation zoning district a land use other than the  
14 following land uses:

15           (a) Agricultural uses.

16           (b) Accessory uses.

17           (c) Agriculture-related uses.

18           (d) Nonfarm residences constructed in a rural residential cluster in accordance  
19 with an approval of the cluster as a conditional use under s. 91.46 (1) (e).

20           (e) Undeveloped natural resource and open space areas.

21           (f) A transportation, utility, communication, or other use that is required under  
22 state or federal law to be located in a specific place or that is authorized to be located  
23 in a specific place under a state or federal law that preempts the requirement of a  
24 conditional use permit for that use.

25           (g) Other uses identified by the department by rule.

1           (2) The department may promulgate rules imposing additional limits on the  
2 permitted uses that may be allowed in a farmland preservation zoning district in  
3 order for a farmland preservation zoning ordinance to comply with s. 91.42.

4           **91.46 Conditional uses.** (1) GENERAL. A farmland preservation zoning  
5 ordinance does not comply with s. 91.42 if the farmland preservation zoning  
6 ordinance allows as a conditional use in a farmland preservation zoning district a  
7 land use other than the following land uses:

8           (a) Agricultural uses.

9           (b) Accessory uses.

10          (c) Agriculture-related uses.

11          (d) Nonfarm residences that qualify under sub. (2) or that meet more restrictive  
12 standards in the farmland preservation zoning ordinance.

13          (e) Nonfarm residential clusters that qualify under sub. (3) or that meet more  
14 restrictive standards in the farmland preservation zoning ordinance.

15          (f) Transportation, communications, pipeline, electric transmission, utility, or  
16 drainage uses that qualify under sub. (4).

17          (g) Governmental, institutional, religious, or nonprofit community uses, other  
18 than uses covered by par. (f), that qualify under sub. (5).

19          (h) Nonmetallic mineral extraction that qualifies under sub. (6).

20          (i) Oil and gas exploration or production that is licensed by the department of  
21 natural resources under subch. II of ch. 295.

22          (j) Other uses allowed by the department by rule.

23          **(1m) ADDITIONAL LIMITATIONS.** The department may promulgate rules imposing  
24 additional limits on the conditional uses that may be allowed in a farmland

1 preservation zoning district in order for a farmland preservation zoning ordinance  
2 to comply with s. 91.42.

3 **(2) NONFARM RESIDENCES.** A nonfarm residence qualifies for the purposes of sub.

4 (1) (d) if the political subdivision determines that all of the following apply:

5 (a) The ratio of nonfarm residential acreage to farm acreage on the base farm  
6 tract on which the nonfarm residence will be located will not be greater than 1 to 20  
7 after the nonfarm residence is constructed.

8 (b) There will not be more than 4 dwelling units in nonfarm residences, nor  
9 more than 5 dwelling units in residences of any kind, on the base farm tract after the  
10 nonfarm residence is constructed.

11 (c) The location of the proposed nonfarm residential parcel, and the location of  
12 the nonfarm residence on that nonfarm residential parcel, will not do any of the  
13 following:

14 1. Convert prime farmland from agricultural use or convert land previously  
15 used as cropland, other than a woodlot, from agricultural use if on the farm there are  
16 reasonable alternative locations for a nonfarm residential parcel or nonfarm  
17 residence.

18 2. Significantly impair or limit the current or future agricultural use of other  
19 protected farmland.

20 **(3) NONFARM RESIDENTIAL CLUSTER.** A political subdivision may issue one  
21 conditional use permit that covers more than one nonfarm residence in a qualifying  
22 nonfarm residential cluster. A nonfarm residential cluster qualifies for the purposes  
23 of sub. (1) (e) if all of the following apply:

24 (a) The parcels on which the nonfarm residences would be located are  
25 contiguous.

1 (b) The political subdivision imposes legal restrictions on the construction of  
2 the nonfarm residences so that if all of the nonfarm residences were constructed,  
3 each would satisfy the requirements under sub. (2).

4 (4) TRANSPORTATION, COMMUNICATIONS, PIPELINE, ELECTRIC TRANSMISSION, UTILITY,  
5 OR DRAINAGE USE. A transportation, communications, pipeline, electric transmission,  
6 utility, or drainage use qualifies for the purposes of sub. (1) (f) if the political  
7 subdivision determines that all of the following apply:

8 (a) The use and its location in the farmland preservation zoning district are  
9 consistent with the purposes of the farmland preservation zoning district.

10 (b) The use and its location in the farmland preservation zoning district are  
11 reasonable and appropriate, considering alternative locations, or are specifically  
12 approved under state or federal law.

13 (c) The use is reasonably designed to minimize conversion of land, at and  
14 around the site of the use, from agricultural use or open space use.

15 (d) The use does not substantially impair or limit the current or future  
16 agricultural use of surrounding parcels of land that are zoned for or legally restricted  
17 to agricultural use.

18 (e) Construction damage to land remaining in agricultural use is minimized  
19 and repaired, to the extent feasible.

20 (5) GOVERNMENTAL, INSTITUTIONAL, RELIGIOUS, OR NONPROFIT COMMUNITY USE. A  
21 governmental, institutional, religious, or nonprofit community use qualifies for the  
22 purposes of sub. (1) (g) if the political subdivision determines that all of the following  
23 apply:

24 (a) The use and its location in the farmland preservation zoning district are  
25 consistent with the purposes of the farmland preservation zoning district.

1 (b) The use and its location in the farmland preservation zoning district are  
2 reasonable and appropriate, considering alternative locations, or are specifically  
3 approved under state or federal law.

4 (c) The use is reasonably designed to minimize the conversion of land, at and  
5 around the site of the use, from agricultural use or open space use.

6 (d) The use does not substantially impair or limit the current or future  
7 agricultural use of surrounding parcels of land that are zoned for or legally restricted  
8 to agricultural use.

9 (e) Construction damage to land remaining in agricultural use is minimized  
10 and repaired, to the extent feasible.

11 **(6) NONMETALLIC MINERAL EXTRACTION.** Nonmetallic mineral extraction  
12 qualifies for the purposes of sub. (1) (h) if the political subdivision determines that  
13 all of the following apply:

14 (a) The operation complies with subch. I of ch. 295 and rules promulgated under  
15 that subchapter, with applicable provisions of the local ordinance under s. 295.13 or  
16 295.14, and with any applicable requirements of the department of transportation  
17 concerning the restoration of nonmetallic mining sites.

18 (b) The operation and its location in the farmland preservation zoning district  
19 are consistent with the purposes of the farmland preservation zoning district.

20 (c) The operation and its location in the farmland preservation zoning district  
21 are reasonable and appropriate, considering alternative locations outside the  
22 farmland preservation zoning district, or are specifically approved under state or  
23 federal law.

24 (d) The operation is reasonably designed to minimize the conversion of land  
25 around the extraction site from agricultural use or open space use.

1 (e) The operation does not substantially impair or limit the current or future  
2 agricultural use of surrounding parcels of land that are zoned for or legally restricted  
3 to agricultural use.

4 (f) The farmland preservation zoning ordinance requires the owner to restore  
5 the land to agricultural use, consistent with any required locally approved  
6 reclamation plan, when extraction is completed.

7 **91.48 Rezoning of land out of a farmland preservation zoning district.**

8 (1) A political subdivision with a certified farmland preservation zoning ordinance  
9 may rezone land out of a farmland preservation zoning district without having the  
10 rezoning certified under s. 91.36, if all of the following apply:

11 (a) The political subdivision finds all of the following, after public hearing:

12 1. The land is better suited for a use not allowed in the farmland preservation  
13 zoning district.

14 2. The rezoning is consistent with any applicable comprehensive plan.

15 3. The rezoning is substantially consistent with the county certified farmland  
16 preservation plan.

17 4. The rezoning will not substantially impair or limit current or future  
18 agricultural use of surrounding parcels of land that are zoned for or legally restricted  
19 to agricultural use.

20 (b) The owner of the land pays to the political subdivision, for each rezoned acre  
21 or portion thereof, a conversion fee equal to the greater of the following:

22 1. Three times the per acre value, for the year in which the land is rezoned, of  
23 the highest value category of tillable cropland in the city, village, or town in which  
24 the rezoned land is located, as specified by the department of revenue under s. 73.03

25 (2a).

1           2. An amount specified in the certified farmland preservation zoning  
2 ordinance.

3           (2) A political subdivision shall by March of 1 each year provide all of the  
4 following to the department:

5           (a) A report of the number of acres that the political subdivision has rezoned  
6 out of a farmland preservation zoning district under sub. (1) during the previous year  
7 and a map that clearly shows the location of those acres.

8           (b) A report of the total amount of conversion fees that the political subdivision  
9 received as conversion fees under sub. (1) (b) for the rezoned acres under par. (a).

10          (c) A conversion fee equal to the amount under sub. (1) (b) 1. for each rezoned  
11 acre reported under par. (a).

12          (3) A political subdivision that is not a county shall by March 1 of each year  
13 submit a copy of the information that it reports to the department under sub. (2) (a)  
14 and (b) to the county in which the political subdivision is located.

15          (4) If a political subdivision fails to comply with sub. (2), the department may  
16 withdraw the certification granted under s. 91.06, 2007 stats, or under s. 91.36 for  
17 the political subdivision's farmland preservation zoning ordinance.

18          **91.49 Use of conversion fee revenues.** (1) All conversion fees received  
19 under s. 91.48 (2) (c) shall be deposited in the working lands fund.

20          (2) If a political subdivision specifies a conversion fee under s. 91.48 (1) (b) 2.  
21 that is higher than the amount that is specified in s. 91.48 (1) (b) 1. and required to  
22 be paid to the department under s. 91.48 (2) (c), the political subdivision shall use the  
23 difference for its costs related to farmland preservation planning, zoning, or  
24 compliance monitoring.

**91.50 Exemption from special assessments.** (1) Except as provided in sub. (3), no political subdivision, special purpose district, or other local governmental entity may levy a special assessment for sanitary sewers or water against land in agricultural use, if the land is located in a farmland preservation zoning district.

(2) A political subdivision, special purpose district, or other local governmental entity may deny the use of improvements for which the special assessment is levied to land that is exempt from the assessment under sub. (1).

(3) The exemption under sub. (1) does not apply to an assessment that an owner voluntarily pays, after the assessing authority provides notice of the exemption under sub. (1).

## SUBCHAPTER IV

## FARMLAND PRESERVATION AGREEMENTS

**91.60 Farmland preservation agreements; general.** (1) AGREEMENTS AUTHORIZED. The department may enter into a farmland preservation agreement that complies with s. 91.62 with the owner of land that is eligible under sub. (2).

**(2) ELIGIBLE LAND.** Land is eligible if all of the following apply:

(a) The land is operated as part of a farm that produced at least \$6,000 in gross farm revenues during the taxable year preceding the year in which the owner applies for a farmland preservation agreement or a total of at least \$18,000 in gross farm revenues during the last 3 taxable years preceding the year in which the owner applies for a farmland preservation agreement.

(b) The land is located in a farmland preservation area identified in a certified farmland preservation plan.

(c) The land is in an agricultural enterprise area designated under s. 91.84.



1           **(3) PRIOR AGREEMENTS.** (a) Except as provided in par. (c) or s. 91.66, a farmland  
2       preservation agreement entered into before the effective date of this paragraph ....  
3       [LRB inserts date], remains in effect for the term specified in the agreement and  
4       under the terms that were agreed upon when the agreement was last created,  
5       extended, or renewed.

6           (b) The department may not extend or renew a farmland preservation  
7       agreement entered into before the effective date of this paragraph .... [LRB inserts  
8       date].

9           (c) The department and an owner of land who entered into a farmland  
10      preservation agreement before the effective date of this paragraph .... [LRB inserts  
11      date] may agree to modify the a farmland preservation agreement in order to allow  
12      the owner to claim the tax credit under s. 71.613 rather than the tax credit for which  
13      the owner would otherwise be eligible.

14           **91.62 Farmland preservation agreements; requirements. (1) CONTENTS.**  
15      The department may not enter into a farmland preservation agreement unless the  
16      agreement does all of the following:

17           (a) Specifies a term of at least 15 years.

18           (b) Includes a correct legal description of the tract of land covered by the  
19      farmland preservation agreement.

20           (c) Includes provisions that restrict the tract of land to the following uses:

21           1. Agricultural uses and accessory uses.

22           2. Undeveloped natural resource and open space uses.

23           **(2) FORM.** The department shall specify a form for farmland preservation  
24      agreements that complies with s. 59.43 (2m).

1           (3) EFFECTIVENESS. A farmland preservation agreement takes effect when it is  
2 signed by all owners of the land covered by the farmland preservation agreement and  
3 by the department.

4           (4) RECORDING. The department shall provide a copy of a signed farmland  
5 preservation agreement to a person designated by the signing owners and shall  
6 promptly present the signed agreement to the register of deeds for the county in  
7 which the land is located for recording.

8           (5) CHANGE OF OWNERSHIP. A farmland preservation agreement is binding on  
9 a person who purchases land during the term of a farmland preservation agreement  
10 that covers the land.

11           **91.64 Applying for a farmland preservation agreement. (1) SUBMITTING**  
12 **AN APPLICATION.** An owner who wishes to enter into a farmland preservation  
13 agreement shall submit an application, on a form provided by the department, to the  
14 county clerk of the county in which the land is located.

15           (2) CONTENTS OF APPLICATION. A person submitting an application under sub.  
16 (1) shall include all of the following in the application:

17           (a) The name and address of each person who has an ownership interest in the  
18 land proposed for coverage by the agreement.

19           (b) The location of the land proposed for coverage, indicated by street address,  
20 global positioning system coordinates, or township, range, and section.

21           (c) The legal description of the land proposed for coverage.

22           (d) A map or aerial photograph of the land proposed for coverage, showing  
23 parcel boundaries, residences and other structures, and significant natural features.

24           (e) Information showing that the land proposed for coverage is eligible under  
25 s. 91.60 (2).

1 (f) A description of every existing mortgage, easement, and lien, other than  
2 liens on growing crops, on land proposed for coverage, including the name and  
3 address of the person holding the lien, mortgage, or easement.

4 (g) A signed agreement from each person required to be identified under par.  
5 (f) subordinating the person's lien, mortgage, or easement to the agreement.

6 (h) Any other information required by the department by rule.

7 (i) Any fee under sub. (2m).

8 **(2m) COUNTY PROCESSING FEE.** A county may charge a reasonable fee for  
9 processing an application for a farmland preservation agreement.

10 **(3) COUNTY REVIEW.** (a) A county shall review an application under sub. (2) to  
11 determine whether the land proposed for coverage meets the requirements under s.  
12 91.60 (2) (b) and (c). The county shall provide its findings to the applicant in writing  
13 within 60 days after the day on which the county clerk receives a complete  
14 application.

15 (b) If the county finds under par. (a) that the land proposed for coverage meets  
16 the requirements under s. 91.60 (2) (b) and (c), the county shall promptly send all of  
17 the following to the department, along with any other comments that the county  
18 chooses to provide:

19 1. The original application, including all of the information provided with the  
20 application.

21 2. A copy of the county's findings.

22 **(4) DEPARTMENT ACTION ON APPLICATION.** (a) The department may prepare a  
23 farmland preservation agreement that complies with s. 91.62 and enter into the  
24 farmland preservation agreement under s. 91.60 (1) based on a complete application  
25 and on county findings under sub. (3) (b).

1 (b) The department may decline to enter into a farmland preservation  
2 agreement for any of the following reasons:

3 1. The application is incomplete.

4 2. The land is not eligible land under s. 91.60 (2).

5 **91.66 Terminating a farmland preservation agreement.** (1) The  
6 department may terminate a farmland preservation agreement or release land from  
7 a farmland preservation agreement at any time if all of the following apply:

8 (a) All of the owners of land covered by the farmland preservation agreement  
9 consent to the termination or release, in writing.

10 (b) The department finds that the termination or release will not impair or limit  
11 agricultural use of other protected farmland.

12 (c) The owners of the land pay to the department, for each acre or portion  
13 thereof released from the farmland preservation agreement, a conversion fee equal  
14 to 3 times the per acre value, for the year in which the farmland preservation  
15 agreement is terminated or the land is released, of the highest value category of  
16 tillable cropland in the town in which the land is located, as specified by the  
17 department of revenue under s. 73.03 (2a).

18 **(1m)** All conversion fees received under sub. (1) (c) shall be deposited in the  
19 working lands fund.

20 **(2)** The department shall provide a copy of its decision to terminate a farmland  
21 preservation agreement or release land from a farmland preservation agreement to  
22 a person designated by the owners of the land and shall present a copy of the decision  
23 to the register of deeds for the county in which the land is located for recording.

24 **91.68 Violations of farmland preservation agreements.** (1) The  
25 department may bring an action in circuit court to do any of the following:

1 (a) Enforce a farmland preservation agreement.

2 (b) Restrain, by temporary or permanent injunction, a change in land use that  
3 violates a farmland preservation agreement.

4 (c) Seek a civil forfeiture for a change in land use that violates a farmland  
5 preservation agreement.

6 (2) A forfeiture under sub. (1) (c) may not exceed twice the fair market value  
7 of the land covered by the agreement at the time of the violation.

8 **91.70 Farmland preservation agreements; exemption from special**  
9 **assessments.** (1) Except as provided in sub. (3), no political subdivision, special  
10 purpose district, or other local governmental entity may levy a special assessment  
11 for sanitary sewers or water against land in agricultural use, if the land is covered  
12 by a farmland preservation agreement.

13 (2) A political subdivision, special purpose district or other local governmental  
14 entity may deny the use of improvements for which the special assessment is levied  
15 to land that is exempt from the assessment under sub. (1).

16 (3) The exemption under sub. (1) does not apply to an assessment that an owner  
17 voluntarily pays, after the assessing authority provides notice of the exemption  
18 under sub. (1).

19 SUBCHAPTER V

20 SOIL AND WATER CONSERVATION

21 **91.80 Soil and water conservation by persons claiming tax credits.** An  
22 owner claiming farmland preservation tax credits under s. 71.613 shall comply with  
23 applicable land and water conservation standards promulgated by the department  
24 under ss. 92.05 (3) (c) and (k), 92.14 (8), and 281.16 (3) (b) and (c).

1           **91.82 Compliance monitoring. (1) COUNTY RESPONSIBILITY.** (a) A county  
2 land conservation committee shall monitor compliance with s. 91.80.

3           (b) For the purpose of par. (a), a county land conservation committee shall  
4 inspect each farm for which the owner claims farmland preservation tax credits  
5 under subch. IX of ch. 71 at least once every 4 years.

6           (c) For the purpose of par (a), a county land conservation committee may do any  
7 of the following:

8           1. Inspect land that is covered by a farmland preservation agreement or  
9 farmland preservation zoning and that is in agricultural use.

10           2. Require an owner to certify, not more than annually, that the owner complies  
11 with s. 91.80.

12           (d) At least once every 4 years, the department shall review each county land  
13 conservation committee's compliance with par. (b).

14           **(2) NOTICE OF NONCOMPLIANCE.** (a) A county land conservation committee shall  
15 issue a written notice of noncompliance to an owner if the committee finds that the  
16 owner has done any of the following:

17           1. Failed to comply with s. 91.80.

18           2. Failed to permit a reasonable inspection under sub. (1) (c) 1.

19           3. Failed to certify compliance as required under sub. (1) (c) 2.

20           (b) A county land conservation committee shall provide to the department of  
21 revenue a copy of each notice of noncompliance issued under par. (a).

22           (c) If a county land conservation committee determines that an owner has  
23 corrected the failure described in a notice of noncompliance under par. (a), it shall  
24 withdraw the notice of noncompliance and notify the owner and the department of  
25 revenue of the withdrawal.

(3) PROCEDURE. The department may promulgate rules prescribing procedures for the administration of this section by land conservation committees.

## SUBCHAPTER VI

## AGRICULTURAL ENTERPRISE AREAS

**91.84 Agricultural enterprise areas; general. (1) DESIGNATION.** (a) 1. The department may by rule designate agricultural enterprise areas targeted for agricultural preservation and development.

2. The department may by rule modify or terminate the designation of an agricultural enterprise area.

(b) Subject to par. (c), the department may designate agricultural enterprise areas with a combined area of not more than 1,000,000 acres of land.

(c) Before January 1, 2012, the department may designate not more than 10 agricultural enterprise areas with a combined area of not more than 200,000 acres of land.

(e) The department may not designate an area as an agricultural enterprise area unless all of the following apply:

1. The department receives a petition requesting the designation and the petition complies with s. 91.86.

3. The parcels in the area are contiguous. Parcels that are only separated by a lake, stream, or transportation or utility right-of-way are contiguous for the purposes of this subdivision.

4. The area is located entirely in a farmland preservation area identified in a certified farmland preservation plan.

5. The land in the area is primarily in agricultural use.

1 (f) In designating agricultural areas under this subsection, the department  
2 shall give preference to areas that include at least 1,000 acres of land.

3 (2) EMERGENCY RULES. The department may use the procedure under s. 227.24  
4 to promulgate a rule designating an agricultural preservation area or modifying or  
5 terminating the designation of an agricultural preservation area. Notwithstanding  
6 s. 227.24 (1) (c) and (2), a rule promulgated under this subsection remains in effect  
7 until the department modifies or repeals the rule. Notwithstanding s. 227.24 (1) (a)  
8 and (3), the department is not required to determine that promulgating a rule under  
9 this subsection as an emergency rule is necessary for the preservation of the public  
10 peace, health, safety, or welfare and is not required to provide a finding of emergency  
11 for a rule promulgated under this subsection.

12 (3) EFFECT OF DESIGNATION. The designation of an area under sub. (1) allows  
13 owners of eligible land within the area to enter into farmland preservation  
14 agreements with the department. If the department modifies or terminates the  
15 designation of an area under sub. (1) and that modification or termination results in  
16 land covered by a farmland preservation agreement no longer being located in a  
17 designated area, the farmland preservation agreement remains in effect for the  
18 remainder of its term, but the department may not extend or renew the farmland  
19 preservation agreement.

20 (4) MAP. In a rule designating an agricultural enterprise area, the department  
21 shall include a map that clearly shows the boundaries of the proposed agricultural  
22 enterprise area so that a reader can easily determine whether a parcel of land is  
23 located within the agricultural enterprise area.

24 (5) EFFECTIVE DATE OF DESIGNATION. The designation of an agricultural  
25 enterprise area takes effect on January 1 of the calendar year following the year in



1 which the rule designating the area is published, unless the rule specifies a later  
2 effective date.

3 **91.86 Agricultural enterprise area; petition. (1) DEFINITION.** In this  
4 section, "eligible farm" means a farm that produced at least \$6,000 in gross farm  
5 revenues during the taxable year preceding the year in which a petition is filed  
6 requesting the department to designate an area in which the farm is located as an  
7 agricultural enterprise area or a total of at least \$18,000 in gross farm revenues  
8 during the 3 taxable years preceding the year in which a petition is filed.

9 **(2) PETITIONERS.** (a) The department may consider a petition requesting that  
10 it designate an area as an agricultural enterprise area if all of the following jointly  
11 file the petition:

12 1. Each political subdivision in which any part of the proposed agricultural  
13 enterprise area is located.

14 2. Owners of at least 5 eligible farms located in the area.

15 (b) Each petitioner under par. (a) who is an individual shall sign the petition.  
16 For a petitioner that is not an individual, an authorized officer or representative  
17 shall sign the petition.

18 **(3) CONTENTS OF PETITION.** (a) The department may not approve a petition  
19 requesting that it designate an area as an agricultural enterprising area unless the  
20 petition contains all of the following:

21 1. The correct legal name and principal address of each petitioner.

22 2. A summary of the petition that includes the purpose and rationale for the  
23 petition.

1           3. A map that clearly shows the boundaries of the proposed agricultural  
2 enterprise area so that a reader can easily determine whether a parcel of land is  
3 located within the proposed area.

4           4. Information showing that the proposed agricultural enterprise area meets  
5 the requirements under s. 91.84 (1) (e).

6           5. A clear description of current land uses in the proposed agricultural  
7 enterprise area, including current agricultural uses, agriculture-related uses,  
8 transportation, utility, energy, and communication uses, and undeveloped natural  
9 resource and open space uses.

10          6. A clear description of the agricultural land use and development goals for  
11 the proposed agricultural enterprise area, including proposed agricultural uses,  
12 agriculture-related uses, and relevant transportation, utility, energy, and  
13 communication uses.

14          7. A plan for achieving the goals under subd. 6., including any planned  
15 investments, grants, development incentives, cooperative agreements, land or  
16 easement purchases, land donations, and promotion and public outreach activities.

17          8. A description of any current or proposed land use controls in the proposed  
18 agricultural enterprise area, including farmland preservation agreements.

19          (b) Petitioners under sub. (2) may include in the petition the names and  
20 addresses of other persons who propose to cooperate in achieving the goals under par.

21          (a) 6.

22           **91.88 Grants for preparing petitions.** (1) From the appropriation under  
23 s. 20.115 (7) (dr), the department may award a grant of up to \$20,000 to a political  
24 subdivision to provide reimbursement for up to 50 percent of the political

subdivision's cost of preparing a petition under s. 91.86 requesting the department to designate an agricultural enterprise area.

(2) The department shall enter into a contract with a political subdivision to which it awards a planning grant under sub. (1) before the department distributes any grant funds to the political subdivision. In the contract, the department shall identify purposes for which the grant is awarded and the costs that are eligible for reimbursement through the grant.

(3) The department may distribute grant funds under this section only after the political subdivision shows that it has incurred costs that are eligible for reimbursement under sub. (2). The department may not distribute more than 50 percent of the amount of a grant under this section for a proposed petition before the political subdivision submits a complete petition.

**SECTION 75.** 92.04 (2) (c) of the statutes is repealed.

**SECTION 76.** 92.05 (3) (L) of the statutes is amended to read:

92.05 (3) (L) *Technical assistance; performance standards.* The department shall provide technical assistance to county land conservation committees and local units of government for the development of ordinances that implement standards adopted under s. 92.07 (2), ~~92.105 (1)~~, 92.15 (2) or (3) or 281.16 (3). The department's technical assistance shall include preparing model ordinances, providing data concerning the standards and reviewing draft ordinances to determine whether the draft ordinances comply with applicable statutes and rules.

**SECTION 77.** 92.104 of the statutes is repealed.

**SECTION 78.** 92.105 of the statutes is repealed.

**SECTION 79.** 92.106 of the statutes is repealed.

**SECTION 80.** 92.14 (2) (e) of the statutes is amended to read:

1           92.14 (2) (e) Promoting ~~compliance with the requirements under ss. 92.104 and~~  
2   92.105 soil and water conservation by persons claiming ~~a~~ farmland preservation  
3   credit tax credits under subch. IX of ch. 71.

4           **SECTION 81.** 92.14 (3) (a) 1. of the statutes is amended to read:

5           92.14 (3) (a) 1. Compliance with soil and water conservation requirements  
6   under ~~ss. 92.104 and 92.105~~ by applicable to persons claiming ~~a~~ farmland  
7   preservation credit tax credits under subch. IX of ch. 71.

8           **SECTION 82.** 92.14 (3) (d) of the statutes is amended to read:

9           92.14 (3) (d) Implementing land and water resource management projects  
10   undertaken to comply with the soil and water conservation requirements under ~~ss.~~  
11   ~~92.104 and 92.105~~ by applicable to persons claiming ~~a~~ farmland preservation credit  
12   tax credits under subch. IX of ch. 71.

13          **SECTION 83.** 93.06 (10m) of the statutes is amended to read:

14          93.06 (10m) FARMLAND PRESERVATION COLLECTIONS. Enter into contracts to  
15   collect amounts owed to the state under ch. 91, 2007 stats., as the result of the  
16   relinquishment of, or the release of land from, a farmland preservation agreement  
17   or as the result of the rezoning of land zoned for exclusive agricultural use.

18          **SECTION 84.** 101.143 (4) (ei) 1m. a. of the statutes is amended to read:

19          101.143 (4) (ei) 1m. a. The owner or operator of the farm tank owns a parcel  
20   of 35 or more acres of contiguous land, on which the farm tank is located, which is  
21   devoted primarily to agricultural use, as defined in s. 91.01 (1) ~~(2)~~, including land  
22   designated by the department of natural resources as part of the ice age trail under  
23   s. 23.17, which during the year preceding submission of a first claim under sub. (3)  
24   produced gross farm profits, as defined in s. 71.58 (4), of not less than \$6,000 or  
25   which, during the 3 years preceding that submission produced gross farm profits, as

1 defined in s. 71.58 (4), of not less than \$18,000, or a parcel of 35 or more acres, on  
2 which the farm tank is located, of which at least 35 acres, during part or all of the  
3 year preceding that submission, were enrolled in the conservation reserve program  
4 under 16 USC 3831 to 3836.

5 **SECTION 85.** 101.143 (4) (ei) 1m. b. of the statutes is amended to read:

6 101.143 (4) (ei) 1m. b. The claim is submitted by a person who, at the time that  
7 the notification was made under sub. (3) (a) 3., was the owner of the farm tank and  
8 owned a parcel of 35 or more acres of contiguous land, on which the farm tank is or  
9 was located, which was devoted primarily to agricultural use, as defined in s. 91.01  
10 (1) (2), including land designated by the department of natural resources as part of  
11 the ice age trail under s. 23.17, which during the year preceding that notification  
12 produced gross farm profits, as defined in s. 71.58 (4), of not less than \$6,000 or  
13 which, during the 3 years preceding that notification, produced gross farm profits,  
14 as defined in s. 71.58 (4), of not less than \$18,000, or a parcel of 35 or more acres, on  
15 which the farm tank is located, of which at least 35 acres, during part or all of the  
16 year preceding that notification, were enrolled in the conservation reserve program  
17 under 16 USC 3831 to 3836.

18 **SECTION 86.** 165.25 (4) (ar) of the statutes is amended to read:

19 165.25 (4) (ar) The department of justice shall furnish all legal services  
20 required by the department of agriculture, trade and consumer protection relating  
21 to the enforcement of ss. 91.68, 100.171, 100.173, 100.174, 100.175, 100.177, 100.18,  
22 100.182, 100.195, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42,  
23 100.50, ~~and~~ 100.51, and 100.55, and chs. 126, 136, 344, 704, 707, and 779, together  
24 with any other services as are necessarily connected to the legal services.

25 **SECTION 87.** 281.16 (3) (e) of the statutes is amended to read:

1           281.16 (3) (e) An owner or operator of an agricultural facility or practice that  
2 is in existence before October 14, 1997, may not be required by this state or a  
3 municipality to comply with the performance standards, prohibitions, conservation  
4 practices or technical standards under this subsection unless cost-sharing is  
5 available, under s. 92.14 or 281.65 or from any other source, to the owner or operator.  
6 For the purposes of this paragraph, sub. (4) and ss. 92.07 (2), ~~92.105 (1)~~, 92.15 (4) and  
7 823.08 (3) (c) 2., the department of natural resources shall promulgate rules that  
8 specify criteria for determining whether cost-sharing is available under s. 281.65  
9 and the department of agriculture, trade and consumer protection shall promulgate  
10 rules that specify criteria for determining whether cost-sharing is available under  
11 s. 92.14 or from any other source. The rules may not allow a determination that  
12 cost-sharing is available to meet local regulations under s. 92.07 (2), ~~92.105 (1)~~ or  
13 92.15 that are consistent with or that exceed the performance standards,  
14 prohibitions, conservation practices or technical standards under this subsection  
15 unless the cost-sharing is at least 70% of the cost of compliance or is from 70% to 90%  
16 of the cost of compliance in cases of economic hardship, as defined in the rules.

17           **SECTION 88.** 281.65 (5) (b) of the statutes is amended to read:

18           281.65 (5) (b) Prepare sections of the priority watershed or priority lake plan  
19 relating to farm-specific implementation schedules, requirements under ss. ~~92.104~~  
20 ~~and 92.105~~ s. 281.16 (3), animal waste management and selection of agriculturally  
21 related best management practices and submit those sections to the department for  
22 inclusion under sub. (4m) (b). The best management practices shall be cost-effective  
23 best management practices, as specified under sub. (4) (e), except in situations in  
24 which the use of a cost-effective best management practice will not contribute to  
25 water quality improvement or will cause a water body to continue to be impaired as

1 identified to the federal environmental protection agency under 33 USC 1313 (d) (1)  
2 (A).

3 **SECTION 89.** 281.65 (5) (d) of the statutes is amended to read:

4 281.65 (5) (d) Develop a grant disbursement and project management schedule  
5 for agriculturally related best management practices to be included in a plan  
6 established under sub. (4) (g) and identify recommendations for implementing  
7 activities or projects under ss. ~~92.10, 92.104 and 92.105~~ and 281.16 (3).

8 **SECTION 90.** 281.65 (5) (e) of the statutes is amended to read:

9 281.65 (5) (e) Identify areas within a priority watershed or priority lake area  
10 that are subject to activities required under ~~ss. 92.104 and 92.105~~ s. 281.16 (3).

11 **SECTION 91.** 289.33 (3) (d) of the statutes is amended to read:

12 289.33 (3) (d) "Local approval" includes any requirement for a permit, license,  
13 authorization, approval, variance or exception or any restriction, condition of  
14 approval or other restriction, regulation, requirement or prohibition imposed by a  
15 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by  
16 a town, city, village, county or special purpose district, including without limitation  
17 because of enumeration any ordinance, resolution or regulation adopted under s.  
18 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),  
19 (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),  
20 (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),  
21 (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10),  
22 (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) and (26), 59.55 (3), (4),  
23 (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16), 59.57  
24 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70 (1),  
25 (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (6), (7), (8),

(10) and (11), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35, 61.351, 61.354, 62.11, 62.23, 62.231, 62.234, 66.0101, 66.0415, 87.30, ~~91.73,~~ 196.58, 200.11 (8), 236.45, 281.43 or 349.16 ~~or~~, subch. VIII of ch. 60, or subch III of ch. 91.

**SECTION 92.** 823.08 (2) (b) of the statutes is amended to read:

823.08 (2) (b) "Agricultural use" has the meaning given in s. 91.01 (1) ~~(2).~~

**SECTION 93.** 846.04 (1) of the statutes is amended to read:

846.04 (1) The plaintiff may, in the complaint, demand judgment for any deficiency that may remain due the plaintiff after sale of the mortgaged premises against every party who is personally liable for the debt secured by the mortgage. Judgment may be rendered for any deficiency remaining after applying the proceeds of sale to the amount due. The judgment for deficiency shall be ordered in the original judgment and separately rendered against the party liable on or after the confirmation of sale. The judgment for deficiency shall be entered in the judgment and lien docket and, except as provided in subs. (2) and (3), enforced as in other cases. A mortgage foreclosure deficiency judgment entered on or after October 14, 1997, on property devoted primarily to under agricultural use, as defined in s. 91.01 (5), on and after October 14, 1997, (2), for at least 12 consecutive months during the preceding 36-month period shall be recorded as an agriculture judgment.

**SECTION 94.** 846.04 (2) of the statutes is amended to read:

846.04 (2) Except as provided in sub. (3), if a mortgage foreclosure deficiency judgment is entered on property ~~devoted primarily to~~ under agricultural use, as defined in s. 91.01 (5), ~~(2), for at least 12 consecutive months during the preceding 36-month period,~~ an action on the deficiency judgment shall be commenced within



1 10 years after the date on which the mortgage foreclosure deficiency judgment is  
2 entered or be barred.

3 **SECTION 95.** 946.13 (2) (g) of the statutes is amended to read:

4 946.13 (2) (g) Contracts with, or tax credits or payments received by, public  
5 officers or employees for wildlife damage claims or abatement under s. 29.889, for  
6 farmland preservation under s. 91.13, 2007 stats., or s. 91.60 or subch. IX of ch. 71  
7 ~~and s. 91.13~~, soil and water resource management under s. 92.14, soil erosion control  
8 under s. 92.10, 1985 stats., animal waste management under s. 92.15, 1985 stats.,  
9 and nonpoint source water pollution abatement under s. 281.65.

10 **SECTION 9343. Initial applicability; Revenue.**

11 (1) FARMLAND PRESERVATION CREDIT. The treatment of section 71.613 of the  
12 statutes first applies to taxable years beginning on January 1, 2010.

13 (END)

D-NOTE

**2009-2010 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0203/P5insMES  
RCT&MES:cjs:ph

SA✓

1 INS 3-18

2 SECTION 1. 20.835 (2) (dn) of the statutes is repealed.

*note: bud*

3 SECTION 2. 20.835 (2) (dm) of the statutes is amended to read:

4 20.835 (2) (dm) *Farmland preservation credit*. A sum sufficient to pay the  
5 aggregate claims approved under subch. IX of ch. 71 ss. 71.57 to 71.61.

History: 1971 c. 125 ss. 192 to 195, 521; 1971 c. 215; 1973 c. 90, 158, 333; 1975 c. 39; 1975 c. 372 s. 41; 1975 c. 424; 1977 c. 29, 31, 313, 418, 447; 1979 c. 34 ss. 637m to 643m, 2102 (46) (d); 1979 c. 221; 1979 c. 329 s. 25 (1); 1979 c. 350 s. 27 (1); 1981 c. 1, 20, 93, 317; 1983 a. 2 ss. 1, 12; 1983 a. 27 ss. 489m, 490m, 2202 (45); 1985 a. 29, 41, 205; 1987 a. 27 ss. 473 to 474r, 476; 1987 a. 92; 1987 a. 312 s. 17; 1987 a. 323, 328, 399, 411, 422; 1989 a. 31 ss. 551 to 557m, 564m; 1989 a. 56 s. 259; 1989 a. 336; 1991 a. 37; 1991 a. 39 ss. 250m, 653m to 659m; 1991 a. 225, 269; 1993 a. 16, 263; 1995 a. 27, 56, 209, 417; 1997 a. 27, 237; 1999 a. 5, 9, 10; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 105, 109; 2003 a. 31, 33, 320; 2005 a. 25, 361, 405, 483; 2007 a. 20, 96, 97, 226.

6 SECTION 3. 20.835 (2) (do) of the statutes is created to read:

7 20.835 (2) (do) *Farmland preservation credit, 2010 and beyond*. A sum  
8 sufficient to pay the aggregate claims approved under s. 71.613 (2), to the extent that  
9 these claims are not paid under par. (qb).

*note: bud*

10 SECTION 4. 20.835 (2) (q) of the statutes is amended to read:

11 20.835 (2) (q) *Farmland tax relief credit*. From the lottery fund, a sum  
12 sufficient to pay the aggregate claims approved under ss. 71.07 (3m) (c), 71.28 (2m)  
13 (c) and 71.47 (2m) (c), to the extent that these claims are not paid under par. (ka).  
14 No moneys may be encumbered or expended from this appropriation account during  
15 1999-00 for for a taxable year that begins after December 31, 2009.

\*\*\*\*NOTE: You may want to ask DOR if the appropriation under s. 20.835 (2) (ka) is sufficient to pay any claims under the farmland tax relief credit once the lottery fund may no longer be used as a revenue source.

or

History: 1971 c. 125 ss. 192 to 195, 521; 1971 c. 215; 1973 c. 90, 158, 333; 1975 c. 39; 1975 c. 372 s. 41; 1975 c. 424; 1977 c. 29, 31, 313, 418, 447; 1979 c. 34 ss. 637m to 643m, 2102 (46) (d); 1979 c. 221; 1979 c. 329 s. 25 (1); 1979 c. 350 s. 27 (1); 1981 c. 1, 20, 93, 317; 1983 a. 2 ss. 1, 12; 1983 a. 27 ss. 489m, 490m, 2202 (45); 1985 a. 29, 41, 205; 1987 a. 27 ss. 473 to 474r, 476; 1987 a. 92; 1987 a. 312 s. 17; 1987 a. 323, 328, 399, 411, 422; 1989 a. 31 ss. 551 to 557m, 564m; 1989 a. 56 s. 259; 1989 a. 336; 1991 a. 37; 1991 a. 39 ss. 250m, 653m to 659m; 1991 a. 225, 269; 1993 a. 16, 263; 1995 a. 27, 56, 209, 417; 1997 a. 27, 237; 1999 a. 5, 9, 10; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 105, 109; 2003 a. 31, 33, 320; 2005 a. 25, 361, 405, 483; 2007 a. 20, 96, 97, 226.

16 SECTION 5. 20.835 (2) (qb) of the statutes is created to read:

17 20.835 (2) (qb) From the lottery fund, the amounts in the schedule to pay the  
18 aggregate claims approved under s. 71.613 (2).

*note: bud*

19 INS 22-19

Farmland preservation credit, 2010 and beyond; lottery fund.

1 <sup>no ff</sup> , <sup>e and</sup> ~~except that~~ if the allowable amount of the claim exceeds the income taxes  
2 otherwise due on the claimant's income, the amount of the claim not used as an offset  
3 against ~~those~~ <sup>Wisconsin income</sup> taxes shall be certified by the department of revenue to the department  
4 of administration for payment to the claimant by check, share draft, or other draft  
5 from the appropriations under s. 20.835 (2) (do) and (qb):  
✓ ✓

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0203/P5dn  
RCT&MES:cjs:ph

Shays

Andrew Miner:

This version of the bill makes the new farmland preservation credit refundable, and eligible claims are paid from the lottery fund and the general fund, although you have not yet specified what schedule entries you'd like for the lottery fund appropriation.

As I've discussed previously, I can't simply repeal the appropriations for the current farmland preservation credit and the farmland tax relief credit because taxpayers have 4 years to file amended returns and an appropriation must be available to pay those claims. In addition, claims under the "old" farmland preservation credit may be made as long as claimants have a valid agreement so an appropriation to fund those claims must remain in effect for 4 years after the last agreement expires. Please review the embedded note related to s. 20.835 (2) (q).

Marc E. Shovers  
Managing Attorney  
Phone: (608) 266-0129  
E-mail: marc.shovers@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0203/P5dn  
RCT&MES:cjs:rs

January 23, 2009

Andrew Miner:

This version of the bill makes the new farmland preservation credit refundable, and eligible claims are paid from the lottery fund and the general fund, although you have not yet specified what schedule entries you'd like for the lottery fund appropriation.

As I've discussed previously, I can't simply repeal the appropriations for the current farmland preservation credit and the farmland tax relief credit because taxpayers have 4 years to file amended returns and an appropriation must be available to pay those claims. In addition, claims under the "old" farmland preservation credit may be made as long as claimants have a valid agreement so an appropriation to fund those claims must remain in effect for 4 years after the last agreement expires. Please review the embedded note related to s. 20.835 (2) (q).

Marc E. Shovers  
Managing Attorney  
Phone: (608) 266-0129  
E-mail: [marc.shovers@legis.wisconsin.gov](mailto:marc.shovers@legis.wisconsin.gov)

**Shovers, Marc**


---

**From:** Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]  
**Sent:** Monday, January 26, 2009 4:33 PM  
**To:** Tradewell, Becky; Shovers, Marc  
**Cc:** Steinmetz, Jana D - DOA  
**Subject:** FW: DOR Farmland preservation suggested changes  
**Attachments:** Farmland preservation comments 012609.doc

Becky and Marc - Please see the additional change from DOR to farmland preservation below. Thanks - Andrew

---

**From:** Steinmetz, Jana D - DOA  
**Sent:** Monday, January 26, 2009 4:31 PM  
**To:** Miner, Andrew - DOA  
**Cc:** Grinde, Kirsten - DOA; Lillethun, Chad W - DOA  
**Subject:** FW: DOR Farmland preservation suggested changes

Ok, what this refers to is item #5 in the attached document. Change pg 23, line 6 of P4 so that it reads claimant certifies to the department.....

Please get this change to Becky and Mark.

---

**From:** Templeton, Carrie E - DOR  
**Sent:** Monday, January 26, 2009 4:22 PM  
**To:** Steinmetz, Jana D - DOA; Miner, Andrew - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA; Ziegler, Paul D - DOR; Koskinen, John B - DOR; Gates-Hendrix, Sherrie L - DOR; Raes, Julie M - DOR; Hynek, Sara - DOA; Walker, William D - DATCP  
**Subject:** FW: DOR Farmland preservation suggested changes

fyi

*Carrie Templeton*  
*Wisconsin Department of Revenue*  
*(608) 266-6466*  
[carrie.templeton@revenue.wi.gov](mailto:carrie.templeton@revenue.wi.gov)

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---

**From:** Crane, Lili B - DOR  
**Sent:** Monday, January 26, 2009 3:15 PM  
**To:** Templeton, Carrie E - DOR  
**Subject:** FW: DOR Farmland preservation suggested changes

I changed the language on Line 24 to claimant has certified rather than department has verified. Thanks!

01/26/2009

---

**From:** Templeton, Carrie E - DOR  
**Sent:** Monday, January 26, 2009 3:10 PM  
**To:** Crane, Lili B - DOR; Ziegler, Paul D - DOR; Koskinen, John B - DOR; Romanski, Randy - DATCP; Walker, William D - DATCP; Steinmetz, Jana D - DOA; Miner, Andrew - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA; Hynek, Sara - DOA; Wink, Wendy L - DOR; Raes, Julie M - DOR; Gates-Hendrix, Sherrie L - DOR  
**Subject:** DOR Farmland preservation suggested changes

Please contact me with any questions. Thank you  
Carrie

*Carrie Templeton*  
*Wisconsin Department of Revenue*  
*(608) 266-6466*  
[carrie.templeton@revenue.wi.gov](mailto:carrie.templeton@revenue.wi.gov)

\*\*\*\*Important Confidentiality Notice\*\*\*\*

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01/26/2009

**Shovers, Marc**


---

**From:** Steinmetz, Jana D - DOA [Jana.Steinmetz@Wisconsin.gov]  
**Sent:** Tuesday, January 27, 2009 3:13 PM  
**To:** Shovers, Marc; Miner, Andrew - DOA; Tradewell, Becky  
**Cc:** Grinde, Kirsten - DOA; Lillethun, Chad W - DOA  
**Subject:** RE: DOR Farmland preservation suggested changes

Marc,

The amounts should be allocated as follows: \$15,000 from the Lottery fund; \$12,280,000 from the general fund.

We are attempting to get answers from DOR on your other questions, but we're inclined to say go ahead as is.

Thank you for your help with all of this.

Thanks,  
 Jana

---

**From:** Shovers, Marc [mailto:Marc.Shovers@legis.wisconsin.gov]  
**Sent:** Tuesday, January 27, 2009 2:37 PM  
**To:** Miner, Andrew - DOA; Tradewell, Becky - LEGIS  
**Cc:** Steinmetz, Jana D - DOA  
**Subject:** RE: DOR Farmland preservation suggested changes

Andrew, I still don't have the information I need to turn the draft around. I've received several responses from DOR, but none of them have answered what I think are pretty simple, straight-forward questions. The first question is whether they want the definition of claimant to be : a) consistent with the definitions in s. 71.07 (3m) (a) 1., etc., or: b) language to the effect of "Claimant means an owner, as defined in s. 91.01 (9), 2007 stats., of farmland . . ." I really don't think it matters, so I'm inclined to just leave the definition as it is, which is consistent with the existing definitions.

Second, I can't get a clear answer from DOR as to why they want to remove the administration language from s. 71.613 (4), and add in some similar language elsewhere in the draft. On this issue, I'm leaving the draft as is, because what is currently in the bill is the same as every other tax credit.

More importantly, though, is the appropriation question. I understand that you want the credit cap to be \$27,280,000. DOR says they want the appropriation language modeled after s. 79.13:

*79.13 Farmland tax relief credit.*

*79.13(1)*

*(1) In the 1999-2000 fiscal year, the amount that is estimated to be expended from the appropriation under s. 20.835 (2) (dn) is \$15,000,000.*

*79.13(2)*

*(2)*



79.13(2)(a)

(a) In the 2000-01 fiscal year, the amount that is estimated to be expended from the appropriation under s. 20.835 (2) (q) is \$15,000,000, plus the amount that is estimated to be expended from the appropriation under s. 20.835 (2) (dn) in the previous fiscal year and less the actual amount that is expended from the appropriation under s. 20.835 (2) (dn) in the previous fiscal year.

79.13(2)(b)

(b) In the 2001-02 fiscal year, and in each fiscal year thereafter, the amount that is estimated to be expended from the appropriation under s. 20.835 (2) (q) is \$15,000,000, plus the amount that is estimated to be expended from the appropriation under s. 20.835 (2) (q) in the previous fiscal year and less the actual amount that is expended from the appropriation under s. 20.835 (2) (q) in the previous fiscal year.

I gather that where s. 79.13 (1) and (2) have the \$15,000,000 amount, you want a certain amount from the lottery fund, with the rest coming from a sum sufficient GPR appropriation. Is this correct? What I need to know is how much of the \$27,280,000 you want from the lottery fund, and how much do you want funded from a sum certain from the general fund?

Marc

Marc E. Shovers

Managing Attorney  
Legislative Reference Bureau  
Phone: (608) 266-0129  
Fax: (608) 264-6948  
e-mail: marc.shovers@legis.wisconsin.gov

---

**From:** Miner, Andrew - DOA [mailto:Andrew.Miner@Wisconsin.gov]  
**Sent:** Monday, January 26, 2009 4:33 PM  
**To:** Tradewell, Becky; Shovers, Marc  
**Cc:** Steinmetz, Jana D - DOA  
**Subject:** FW: DOR Farmland preservation suggested changes

Becky and Marc - Please see the additional change from DOR to farmland preservation below. Thanks - Andrew

---

**From:** Steinmetz, Jana D - DOA  
**Sent:** Monday, January 26, 2009 4:31 PM  
**To:** Miner, Andrew - DOA  
**Cc:** Grinde, Kirsten - DOA; Lillethun, Chad W - DOA  
**Subject:** FW: DOR Farmland preservation suggested changes

Ok, what this refers to is item #5 in the attached document. Change pg 23, line 6 of P4 so that it reads claimant certifies to the department.....

01/27/2009

Please get this change to Becky and Mark.

---

**From:** Templeton, Carrie E - DOR  
**Sent:** Monday, January 26, 2009 4:22 PM  
**To:** Steinmetz, Jana D - DOA; Miner, Andrew - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA; Ziegler, Paul D - DOR; Koskinen, John B - DOR; Gates-Hendrix, Sherrie L - DOR; Raes, Julie M - DOR; Hynek, Sara - DOA; Walker, William D - DATCP  
**Subject:** FW: DOR Farmland preservation suggested changes

fyi

Carrie Templeton  
 Wisconsin Department of Revenue  
 (608) 266-6466  
[carrie.templeton@revenue.wi.gov](mailto:carrie.templeton@revenue.wi.gov)

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---

**From:** Crane, Lili B - DOR  
**Sent:** Monday, January 26, 2009 3:15 PM  
**To:** Templeton, Carrie E - DOR  
**Subject:** FW: DOR Farmland preservation suggested changes

I changed the language on Line 24 to claimant has certified rather than department has verified. Thanks!

---

Carrie E - DOR  
 January 26, 2009 3:10 PM  
 DOR; Ziegler, Paul D - DOR; Koskinen, John B - DOR; Romanski, Randy - DATCP; Walker, William D - DATCP; Steinmetz, Jana D - DOA; Miner, Andrew - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA; Hynek, Sara - DOA; Wink, Wendy L - DOR; Raes, Julie M - DOR; Gates-Hendrix, Sherrie L - DOR  
 Farmland preservation suggested changes

Please contact me with any questions. Thank you  
 Carrie

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01/27/2009

**Shovers, Marc**


---

**From:** Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]  
**Sent:** Monday, January 26, 2009 3:45 PM  
**To:** Shovers, Marc; Tradewell, Becky  
**Cc:** Steinmetz, Jana D - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA  
**Subject:** FW: DOR Farmland preservation suggested changes  
**Attachments:** Farmland preservation comments 012609.doc

Marc and Becky,

In the attachment below are suggested changes from DOR on the farmland preservation draft. (Note that these are based on version P4). Please incorporate the changes. For #2, please create an annual appropriation for DOR for the costs in administering the farmland preservation credit. Let us know if you have questions or concerns. We hope that these will be the final changes necessary. Thanks,  
 Andrew

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**Sent:** Monday, January 26, 2009 3:10 PM  
**To:** Crane, Lili B - DOR; Ziegler, Paul D - DOR; Koskinen, John B - DOR; Romanski, Randy - DATCP; Walker, William D - DATCP; Steinmetz, Jana D - DOA; Miner, Andrew - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA; Hynek, Sara - DOA; Wink, Wendy L - DOR; Raes, Julie M - DOR; Gates-Hendrix, Sherrie L - DOR  
**Subject:** DOR Farmland preservation suggested changes

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## Shovers, Marc

---

**From:** Crane, Lili B - DOR [Lili.Crane@revenue.wi.gov]  
**Sent:** Tuesday, January 27, 2009 11:35 AM  
**To:** Shovers, Marc  
**Cc:** Templeton, Carrie E - DOR; Ziegler, Paul D - DOR; Steinmetz, Jana D - DOA; Koskinen, John B - DOR; Miner, Andrew - DOA; Tradewell, Becky  
**Subject:** RE: DOR Farmland preservation suggested changes

We were concerned that the term "Claimant" was the new definition in all the statues that refer to the Farmland preservation credit.

The Administration paragraph was to replace the language in the draft. Did I get the page number wrong again (yes it looks like I did!)? OK, looking at P5, its on page 25 and is (4) Line 1-5.. Delete the Administration language in P5 and replace with "The income tax provisions in this chapter relating to assessments, refunds, appeals and collection apply to the credit under 71.613."

Thanks!

---

**From:** Shovers, Marc [mailto:Marc.Shovers@legis.wisconsin.gov]  
**Sent:** Tuesday, January 27, 2009 11:29 AM  
**To:** Crane, Lili B - DOR  
**Cc:** Templeton, Carrie E - DOR; Ziegler, Paul D - DOR; Steinmetz, Jana D - DOA; Koskinen, John B - DOR; Miner, Andrew - DOA; Tradewell, Becky - LEGIS  
**Subject:** RE: DOR Farmland preservation suggested changes

Hi Lili:

Thanks for the response, but I'm still a little confused. With regard to your first bullet point, what does DOR want done regarding the definition of "claimant?" As I stated in yesterday's email to Andrew:

*It appears DOR wants s. 71.58 (1) (intro.) to read "'Claimant' means an owner, as defined in s. 91.01 (9), 2007 stats., of farmland . . ." which is easy enough to do, but why would you want to make any changes to this credit for which no new claims may be made? The item says the change should be made to make the definition of "claimant" consistent with ss. 71.07 (3m) (a) 1. (intro.), 71.28 (2m) (a) 1. (intro.) and 71.47 (2m) (a) 1. (intro.), but the proposed change would make the definition in 71.58 (1) (intro.) inconsistent with those other statutes. Do you want the change made as I've indicated, or do you want no change so the definitions are all consistent?*

I have changed "January" to "July" to address your concerns in the second bullet point.

With regard to your third bullet point, I can't really speak to DOA's intent, so I can't address that issue.

With regard to the comments below the third bullet point, I'm still confused about what DOR is requesting, and why. I still have the same comments and concerns from yesterday's email to Andrew:

The first comment refers to the request to add language on p. 21, line 17. The second comment refers to the request to delete lines 17 to 21 on page 24.

Subject: RE: DOR Farmland preservation suggested changes

That sounds logical. How about the rest of the questions?

---

From: Ziegler, Paul D - DOR

Sent: Monday, January 26, 2009 6:43 PM

To: Steinmetz, Jana D - DOA; Templeton, Carrie E - DOR; Crane, Lili B - DOR; Koskinen, John B - DOR

Cc: Miner, Andrew - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA

Subject: RE: DOR Farmland preservation suggested changes

Jana -- Here is where we left item #1 with DATCP this afternoon:

The cap should work similar to the current Farmland Tax Relief Credit (so that if claims exceed the cap, the target expenditures for the next year are reduced by reducing the per acre payment amounts). By this methodology, average spending will, over time, equal no more than the cap amount of \$27,280,000.

What was not explicitly discussed today, at least to my recollection, was what should occur if claims are below \$27,280,000. Under the Farmland Tax Relief Credit, the "unspent" allocation is pulled forward (and for this case the per acre payment amounts would be increased). In this case, claims over time will average the cap amount.

Based upon our general agreement to pattern the revised credit based on the Farmland Tax Credit methodology and DATCP's earlier documentation, I would strongly expect that DATCP would want "unspent" amounts carried forward to ensure, over time, that farm credits do not decline relative to the year that DATCP used to calculate the \$27,280,000 "base" amount.

Paul

---

From: Steinmetz, Jana D - DOA

Sent: Monday, January 26, 2009 5:53 PM

To: Templeton, Carrie E - DOR; Crane, Lili B - DOR; Ziegler, Paul D - DOR; Koskinen, John B - DOR

Cc: Miner, Andrew - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA

Subject: FW: DOR Farmland preservation suggested changes Can DOR respond to Mark's questions?

---

From: Shovers, Marc [mailto:Marc.Shovers@legis.wisconsin.gov]

Sent: Monday, January 26, 2009 5:15 PM

To: Miner, Andrew - DOA; Tradewell, Becky - LEGIS

Cc: Steinmetz, Jana D - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA

Subject: RE: DOR Farmland preservation suggested changes

Hello Andrew:

I have some questions about some of DOR's suggestions.

The instructions for item 1 state, in part: "A policy decision would be needed to determine if the reduction would be intended to just get back to the \$27,280,000 for the next fiscal year, or instead, target an amount under this figure so that over time the average spending is no more than \$27,280,000." What is your policy decision?

With regard to item 2, how much money would you like to give DOR to administer the program?

I'm confused about item 3. It appears DOR wants s. 71.58 (1) (intro.) to read "'Claimant' means an owner, as defined in s. 91.01 (9), 2007 stats., of farmland . . ." which is easy enough to do, but why would you want to make any changes to this credit for which no new claims may be made? The item says the change should be made to make the definition of "claimant" consistent with ss. 71.07 (3m) (a) 1. (intro.), 71.28 (2m) (a) 1. (intro.) and 71.47 (2m) (a) 1. (intro.), but the proposed change would make the definition

in 71.58 (1) (intro.) inconsistent with those other statutes. Do you want the change made as I've indicated, or do you want no change so the definitions are all consistent?

I don't understand the instruction for item 4. Adding this statement regarding the administration of the tax in the middle of the definitions doesn't seem correct. Is there some other page and line number to which DOR is referring?

I don't understand the instruction for item 6. Why would DOR want to delete the provisions for the administration of the tax? I believe that every other tax credit has a similar provision in a similar position. The administration provisions are always the last element of a credit, so I'm not sure why DOR is suggesting the deletion of s. 71.613 (4) on page 24, lines 17 to 21. This change would make this credit different from all of the other credits.

In your response, please let me know if you are still referring to the /P4 version, or the /P5 version, which is the version in which the credit became a refundable credit. Thanks.

Marc

Marc E. Shovers

Managing Attorney  
Legislative Reference Bureau  
Phone: (608) 266-0129  
Fax: (608) 264-6948  
e-mail: marc.shovers@legis.wisconsin.gov

---

From: Miner, Andrew - DOA [mailto:Andrew.Miner@Wisconsin.gov]  
Sent: Monday, January 26, 2009 3:45 PM  
To: Shovers, Marc; Tradewell, Becky  
Cc: Steinmetz, Jana D - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA  
Subject: FW: DOR Farmland preservation suggested changes Marc and Becky,

In the attachment below are suggested changes from DOR on the farmland preservation draft. (Note that these are based on version P4). Please incorporate the changes. For # 2, please create an annual appropriation for DOR for the costs in administering the farmland preservation credit. Let us know if you have questions or concerns. We hope that these will be the final changes necessary. Thanks,

Andrew

---

From: Templeton, Carrie E - DOR  
Sent: Monday, January 26, 2009 3:10 PM  
To: Crane, Lili B - DOR; Ziegler, Paul D - DOR; Koskinen, John B - DOR; Romanski, Randy - DATCP; Walker, William D - DATCP; Steinmetz, Jana D - DOA; Miner, Andrew - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA; Hynek, Sara - DOA; Wink, Wendy L - DOR; Raes, Julie M - DOR; Gates-Hendrix, Sherrie L - DOR  
Subject: DOR Farmland preservation suggested changes

Please contact me with any questions. Thank you Carrie

Carrie Templeton  
Wisconsin Department of Revenue  
(608) 266-6466  
carrie.templeton@revenue.wi.gov<mailto:carrie.templeton@revenue.wi.gov>

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## **DOR 2009-11 BUDGET PROPOSAL REVIEW**

**DATE:** January 26, 2009

**LRB: 0203/P4** Change farmland preservation program

**Reviewed by:** Jacek Cianciara and Paul Ziegler, Division of Research and Policy, DOR  
Lili Crane, Division of Income, Sales and Excise Tax

### **Changes Needed & Why:**

1. The mechanism for administration of the cap on should be made to parallel the farmland tax relief credit (whereby annual expenditures are targeted at \$15 million annually plus or minus actual variation from the target in prior years). This mechanism is applied on a timeline which changes the credit for the next year to accommodate variations in claim amounts. Under this suggested change to the cap mechanism, if in any year the cap is exceeded, the per acre payments for the next year (rather than the current year) would be reduced to lower the anticipated claims. A policy decision would be needed to determine if the reduction would be intended to just get back to the \$27,280,000 for the next fiscal year, or instead, target an amount under this figure so that over time the average spending is no more than \$27,280,000.
2. Consideration should also be given to creating a SEG appropriation, funded by the working lands fund, for DOR's costs related to the farmland preservation credit (creating a parallel to the draft's treatment for DATCP).
3. Page 11, Line 4, 71.58(1)(intro.) - Change definition of "claimant" to be consistent with ss. 71.07(3m)(a)1.(intro.), 71.28(2m)(a)1.(intro.), and 71.47(2m)(a)1.(intro.): "Claimant" means an owner of farmland, as defined in s. 91.09(9), domiciled in this state during the entire year for which a credit under ss. 71.57 to 71.61 is claimed, except as follows:

Page 11, line 4 - strike the words "of farmland"

Page 11, line 5 - add the words "of farmland" after the second comma

4. Page 21, line 17. Add: Administration. The income tax provisions in this chapter relating to assessments, refunds, appeals and collection apply to the credit under 71.613.
5. Add to Page 23, line 6 "No credit may be allowed under this section unless a claimant is verified by the department as having met all of the following conditions:"
6. Page 24, lines 17 - 21 Delete.



## Shovers, Marc

**From:** Crane, Lili B - DOR [Lili.Crane@revenue.wi.gov]  
**Sent:** Tuesday, January 27, 2009 9:43 AM  
**To:** Shovers, Marc  
**Cc:** Templeton, Carrie E - DOR; Ziegler, Paul D - DOR; Steinmetz, Jana D - DOA; Koskinen, John B - DOR  
**Subject:** FW: DOR Farmland preservation suggested changes

**Importance:** High

Marc, I apologize for the confusion. I mis-cut and pasted. Let me know if you have any further questions! Thank you!

To clarify:

From our original comments:

- 71.58(1)(intro.) - Change definition of "claimant" to be consistent with 71.07(3m)(a)1.(intro.), 71.28(2m)(a)1.(intro.), and 71.47(2m)(a)1.(intro.):

Page 11, line 4 - strike the words "of farmland"

Page 11, line 5 - add the words "of farmland" after the second comma

- Under the provisions of sections 71.57 to 71.61, a credit is not available if a farmland preservation agreement or transition area agreement expires before July 1 of the year for which the credit is claimed. In light of this, section 71.61(6) should be changed:

Page 20, line 20 - strike the word "January" and replace with the word "July" *p. 21, l. 4 of 1/25*

- For purposes of the credit under 71.613, if a partnership, LLC treated as a partnership, or a tax-option (S) corporation owns the qualifying acres, neither the entity nor the partners or shareholders qualify to claim the credit, is this the intent?

After conversation with DATCP, *p. 23, l. 16 of 1/25*

Page 23, line 6, No credit may be allowed under this section unless a claimant has *language added to par. (a) & par. (b) & not to intro. as suggested, cuz it wouldn't make sense w/ par. (c).* certified to the department as having met all of the following conditions:

Page 24 delete lines 17 through line 21.

Add page 21, line 17. Administration. The income tax provisions in this chapter relating to assessments, refunds, appeals and collection apply to the credit under 71.613.

-----Original Message-----

**From:** Templeton, Carrie E - DOR  
**Sent:** Monday, January 26, 2009 10:08 PM  
**To:** Steinmetz, Jana D - DOA; Ziegler, Paul D - DOR; Crane, Lili B - DOR; Koskinen, John B - DOR  
**Cc:** Miner, Andrew - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA  
**Subject:** RE: DOR Farmland preservation suggested changes

Lili  
Can you please respond? Thanks  
Carrie

---

**From:** Steinmetz, Jana D - DOA  
**Sent:** Monday, January 26, 2009 6:50 PM  
**To:** Ziegler, Paul D - DOR; Templeton, Carrie E - DOR; Crane, Lili B - DOR; Koskinen, John B - DOR  
**Cc:** Miner, Andrew - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA

*I don't understand the instruction for item 4. Adding this statement regarding the administration of the tax in the middle of the definitions doesn't seem correct. Is there some other page and line number to which DOR is referring?*

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Thanks, Lili.

Marc

Marc E. Shovers

Managing Attorney  
Legislative Reference Bureau  
Phone: (608) 266-0129  
Fax: (608) 264-6948  
e-mail: marc.shovers@legis.wisconsin.gov

-----Original Message-----

From: Crane, Lili B - DOR [<mailto:Lili.Crane@revenue.wi.gov>]

Sent: Tuesday, January 27, 2009 9:43 AM

To: Shovers, Marc

Cc: Templeton, Carrie E - DOR; Ziegler, Paul D - DOR; Steinmetz, Jana D - DOA; Koskinen, John B - DOR

Subject: FW: DOR Farmland preservation suggested changes

Importance: High

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To clarify:

From our original comments:

- 71.58(1)(intro.) - Change definition of "claimant" to be consistent with 71.07(3m)(a)1.(intro.), 71.28(2m)(a)1.(intro.), and 71.47(2m)(a)1.(intro.):

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Page 20, line 20 - strike the word "January" and replace with the word "July"

- For purposes of the credit under 71.613, if a partnership, LLC treated as a partnership, or a tax-option (S) corporation owns the qualifying acres, neither the entity nor the partners or shareholders qualify to claim the credit, is this the intent?

After conversation with DATCP,

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Carrie

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Paul

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To: Miner, Andrew - DOA; Tradewell, Becky - LEGIS  
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Marc

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Managing Attorney  
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Phone: (608) 266-0129  
Fax: (608) 264-6948  
e-mail: marc.shovers@legis.wisconsin.gov

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From: Miner, Andrew - DOA [<mailto:Andrew.Miner@Wisconsin.gov>]

Sent: Monday, January 26, 2009 3:45 PM

To: Shovers, Marc; Tradewell, Becky

Cc: Steinmetz, Jana D - DOA; Grinde, Kirsten - DOA; Lillethun, Chad W - DOA

Subject: FW: DOR Farmland preservation suggested changes Marc and Becky,

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Andrew

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Sent: Monday, January 26, 2009 3:10 PM

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Subject: DOR Farmland preservation suggested changes

Please contact me with any questions. Thank you Carrie

Carrie Templeton

Wisconsin Department of Revenue

(608) 266-6466

carrie.templeton@revenue.wi.gov<mailto:carrie.templeton@revenue.wi.gov>

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